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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,446	09/08/2003	Michael J. Sullivan	B03-58	4732
40990	7590	06/13/2005	EXAMINER	
ACUSHNET COMPANY 333 BRIDGE STREET P. O. BOX 965 FAIRHAVEN, MA 02719			HUNTER, ALVIN A	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/658,446

Applicant(s)

SULLIVAN ET AL.

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,7-10 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-10 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7-10, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang (USPN 5952415).

In regards to claims 1, 10, 13, and 16, Hwang discloses a three-piece golf ball having a core (5a), intermediate layer (5b), a thin dense layer (5c) has a diameter of 37.5mm, giving the layer a thickness of 1.25mm (See Table 3, example 5), and cover (5d) (See Figures 4) wherein the core comprises

a) an elastomeric composition comprising a diene rubber (See Column 1, lines 62 through 65),

b) a reactive co-agent in an amount of about 1 to 15, wherein about 1 is about 0 phr (See Column 2, lines 7 through 12), and

c) a crosslinking agent (See Column 2, lines 26 through 34).

Hwang also notes that the inner and outer covers, which is equivalent to the intermediate layer and cover, may be made of ionomers neutralized of any type (See Paragraph bridging Columns 3 and 4, and Column 4, lines 8 through 14). One having ordinary skill in the art would have found it obvious to neutralized the intermediate layer in any fashion in order to obtain the durability and feel desired. Furthermore, being that

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Hwang meet the claimed structure of the core, it is submitted that the core inherently has an Atti compression of 10-60 and a specific gravity of less than 1.05.

In regards to claim 7, Applicant does not set forth any advantages or improvements to which having a thin dense layer having a thickness of about 0.25 to about 0.5mm would attain over a thickness of about 0.025 to about 1.27mm. The distinctions between the dimensions of the layer appear to be mere obvious design choices. It has been established above that Hwang performs equally the same as the invention of the applicant.

In regards to claims 8, 9, 17, and 18, Hwang also discloses a middle cover layer, equivalent to the thin dense layer of the applicant, in between the inner cover ad outer cover, equivalent to the intermediate layer and cover of the applicant (See Paragraph bridging Columns 3 and 4, and Column 4, lines 8 through 14). Being that Hwang discloses the same structure and composition claimed by the applicant, it is submitted that the Hwang inherently meets the specific gravity of that claimed by the applicant.

In regards to claim 14, the reactive co-agent comprises a metal salt of diacrylate (See Column 2, lines 7 through 12).

In regards to claim 15, the metal is zinc (See Column 2, lines 7 through 12).

### ***Response to Arguments***

Applicant's arguments filed 1/18/2005 have been fully considered but they are not persuasive. Applicant argues that the thickness of the thin dense layer taught by Hwang is 2.5mm. The examiner disagrees. Applicant is giving the term "thickness" a definition which is inconsistent with what is known as "thickness" within the prior art.

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Difference between the diameters of the cover and the intermediate layer is 2.5mm; however, the thickness, or gage, is half of the difference between the two layers, which would be 1.25mm (the thickness from the outer surface of the intermediate layer to the inner surface of the cover). Difference between the diameters of the intermediate layer and the cover would be twice the thickness of the layer based on the how the applicant is arguing. Furthermore, applicant does not define the thickness as being the diameter difference between layers; more so, applicant never defines what "thickness" is.

In regards to inherency of claim 10, Applicant should look at the rejection again. The inherency is based on the structural similarities of the golf ball. The Office does not have the means to test the invention of Hwang, therefore, it is the applicant's burden to prove that the property is not inherent. Hwang discloses the core made of a diene, rubber, particularly cis-polybutadiene, a reactive co-agent, particularly zinc diacrylate, 0.5 to 5 parts of a peroxide wherein the applicant in the first embodiment discloses the same and notes the zinc stearate being optional (See Page 8, last paragraph of applicant's specification). Based on this is it submitted that the properties are inherent. Again, applicant bears the burden to show non-inherency.

Applicant also argues that Hwang does not teach a highly neutralized polymer. The examiner disagrees. Applicant notes that highly neutralized polymers are not necessary to attain the invention by the language of "such as" in the paragraph bridging pages 16 and 17. Applicant also bears the burden to define the term being used to define the material. It is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim

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language. Hwang discloses the polymer of the intermediate layer partially to totally neutralized; therefore, it is submitted that Hwang meets the claim language.

Based on the above arguments, the above rejection has been furnished.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is (571) 272-4411. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Vidovich, can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAH

Alvin A. Hunter, Jr.

  
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